

**DEPARTMENT OF MANAGED HEALTH CARE  
HELP CENTER  
DIVISION OF PLAN SURVEYS**

**TECHNICAL ASSISTANCE GUIDE**

**GRIEVANCES AND APPEALS  
ROUTINE VISION PLAN SURVEY  
OF  
PLAN NAME**

**DATE OF SURVEY:**

**PLAN COPY**

*Issuance of this September 15, 2014 Technical Assistance Guide renders all other versions obsolete.*

# **VISION PLAN TAG**

## **GRIEVANCES AND APPEALS REQUIREMENTS**

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### Requirement GA-001: Grievance System Description

#### STATUTORY/REGULATORY CITATION(S)

##### **CA Health and Safety Code section 1367.01(j)**

(j) Every health care service plan subject to this section that reviews requests by providers prior to, retrospectively, or concurrent with, the provision of health care services to enrollees shall establish, as part of the quality assurance program required by Section 1370, a process by which the plan's compliance with this section is assessed and evaluated. The process shall include provisions for evaluation of complaints, assessment of trends, implementation of actions to correct identified problems, mechanisms to communicate actions and results to the appropriate health plan employees and contracting providers, and provisions for evaluation of any corrective action plan and measurements of performance.

##### **CA Health and Safety Code section 1368(a)**

(a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

(2) Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

(3) Provide forms for grievances to be given to subscribers and enrollees who wish to register written grievances. The forms used by plans licensed pursuant to Section 1353 shall be approved by the director in advance as to format.

(4) (A) Provide for a written acknowledgment within five calendar days of the receipt of a grievance, except as noted in subparagraph (B). The acknowledgment shall advise the complainant of the following:

(i) That the grievance has been received.

(ii) The date of receipt.

(iii) The name of the plan representative and the telephone number and address of the plan representative who may be contacted about the grievance.

(B) Grievances received by telephone, by facsimile, by e-mail, or online through the plan's Internet Web site pursuant to Section 1368.015, that are not coverage disputes, disputed health care services involving medical necessity, or experimental or investigational treatment and that are resolved by the next business day following receipt are exempt from the requirements of subparagraph (A) and paragraph (5). The plan shall maintain a log of all these grievances. The log shall be periodically reviewed by the plan and shall include the following information for each complaint:

(i) The date of the call.

(ii) The name of the complainant.

(iii) The complainant's member identification number.

(iv) The nature of the grievance.

(v) The nature of the resolution.

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- (vi) The name of the plan representative who took the call and resolved the grievance.
- (5) Provide subscribers and enrollees with written responses to grievances, with a clear and concise explanation of the reasons for the plan's response. For grievances involving the delay, denial, or modification of health care services, the plan response shall describe the criteria used and the clinical reasons for its decision, including all criteria and clinical reasons related to medical necessity. If a plan, or one of its contracting providers, issues a decision delaying, denying, or modifying health care services based in whole or in part on a finding that the proposed health care services are not a covered benefit under the contract that applies to the enrollee, the decision shall clearly specify the provisions in the contract that exclude that coverage.
- (6) For grievances involving the cancellation, rescission, or nonrenewal of a health care service plan contract, the health care service plan shall continue to provide coverage to the enrollee or subscriber under the terms of the health care service plan contract until a final determination of the enrollee's or subscriber's request for review has been made by the health care service plan or the director pursuant to Section 1365 and this section. This paragraph shall not apply if the health care service plan cancels or fails to renew the enrollee's or subscriber's health care service plan contract for nonpayment of premiums pursuant to paragraph (1) of subdivision (a) of Section 1365.
- (7) Keep in its files all copies of grievances, and the responses thereto, for a period of five years.

### **CA Health and Safety Code section 1368(a)(4)(B)**

- (a) Every plan shall do all of the following:
  - (4) (A) Provide for a written acknowledgment within five calendar days of the receipt of a grievance, except as noted in subparagraph (B). The acknowledgment shall advise the complainant of the following:
    - (i) That the grievance has been received.
    - (ii) The date of receipt.
    - (iii) The name of the plan representative and the telephone number and address of the plan representative who may be contacted about the grievance.
  - (B) Grievances received by telephone, by facsimile, by e-mail, or online through the plan's Internet Web site pursuant to Section 1368.015, that are not coverage disputes, disputed health care services involving medical necessity, or experimental or investigational treatment and that are resolved by the next business day following receipt are exempt from the requirements of subparagraph (A) and paragraph (5). The plan shall maintain a log of all these grievances. The log shall be periodically reviewed by the plan and shall include the following information for each complaint:
    - (i) The date of the call.
    - (ii) The name of the complainant.
    - (iii) The complainant's member identification number.
    - (iv) The nature of the grievance.
    - (v) The nature of the resolution.
    - (vi) The name of the plan representative who took the call and resolved the grievance.

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### **28 CCR 1300.68(a)**

(a) The grievance system shall be established in writing and provide for procedures that will receive, review and resolve grievances within 30 calendar days of receipt by the plan, or any provider or entity with delegated authority to administer and resolve the plan's grievance system. The following definitions shall apply with respect to the regulations relating to grievance systems:

(1) "Grievance" means a written or oral expression of dissatisfaction regarding the plan and/or provider, including quality of care concerns, and shall include a complaint, dispute, request for reconsideration or appeal made by an enrollee or the enrollee's representative. Where the plan is unable to distinguish between a grievance and an inquiry, it shall be considered a grievance.

(2) "Complaint" is the same as "grievance."

(3) "Complainant" is the same as "grievant," and means the person who filed the grievance including the enrollee, a representative designated by the enrollee, or other individual with authority to act on behalf of the enrollee.

(4) "Resolved" means that the grievance has reached a final conclusion with respect to the enrollee's submitted grievance, and there are no pending enrollee appeals within the plan's grievance system, including entities with delegated authority.

(A) If the plan has multiple internal levels of grievance resolution or appeal, all levels must be completed within 30 calendar days of the plan's receipt of the grievance.

(B) Grievances that are not resolved within 30 calendar days, or grievances referred to the Department's complaint or independent medical review system, shall be reported as "pending" grievances pursuant to subsection (f) below. Grievances referred to external review processes, such as reviews of Medicare Managed Care determinations pursuant to 42 C.F.R. Part 422, or the Medi-Cal Fair Hearing process, shall also be reported pursuant to subsection (f) until the review and any required action by the plan resulting from the review is completed.

### **28 CCR 1300.68(b)(1)**

(b) The plan's grievance system shall include the following:

(1) An officer of the plan shall be designated as having primary responsibility for the plan's grievance system whether administered directly by the plan or delegated to another entity. The officer shall continuously review the operation of the grievance system to identify any emergent patterns of grievances. The system shall include the reporting procedures in order to improve plan policies and procedures.

### **28 CCR 1300.68(b)(3)**

(b) The plan's grievance system shall include the following:

(3) The grievance system shall address the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities. The system shall ensure all enrollees have access to and can fully participate in the grievance system by providing assistance for those with limited English proficiency or with a visual or other communicative impairment. Such assistance shall include, but is not limited to, translations of grievance procedures, forms, and plan responses to grievances, as well as access to interpreters, telephone relay systems and other devices that aid disabled individuals to communicate. (Note: Plans shall develop and file with the Department a policy describing how they ensure that their grievance system complies with this subsection within 90 days of the effective date of this regulation.)

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### **28 CCR 1300.68(b)(5)**

(b) The plan's grievance system shall include the following:

(5) A written record shall be made for each grievance received by the plan, including the date received, the plan representative recording the grievance, a summary or other documents describing the grievance, and its disposition. The written record of grievances shall be reviewed periodically by the governing body of the plan, the public policy body created pursuant to section 1300.69, and by an officer of the Plan or his designee. This review shall be thoroughly documented.

### **28 CCR 1300.68(b)(8)**

(b) The plan's grievance system shall include the following:

(8) The plan shall assure that there is no discrimination against an enrollee or subscriber including cancellation of the contract) on the grounds that the complainant filed a grievance.

### **28 CCR 1300.68(d)(2)**

(d) The plan shall respond to grievances as follows:

(2) The grievance system shall provide for a prompt review of grievances by the management or supervisory staff responsible for the services or operations which are the subject of the grievance.

### **28 CCR 1300.68(d)(6)**

(d) The plan shall respond to grievances as follows:

(6) Copies of grievances and responses shall be maintained by the Plan for five years, and shall include a copy of all medical records, documents, evidence of coverage and other relevant information upon which the plan relied in reaching its decision.

### **28 CCR 1300.68(d)(8)**

(d) The plan shall respond to grievances as follows:

(8) Grievances received over the telephone that are not coverage disputes, disputed health care services involving medical necessity or experimental or investigational treatment, and that are resolved by the close of the next business day, are exempt from the requirement to send a written acknowledgment and response. The plan shall maintain a log of all such grievances containing the date of the call, the name of the complainant, member identification number, nature of the grievance, nature of resolution, and the plan representative's name who took the call and resolved the grievance. The information contained in this log shall be periodically reviewed by the plan as set forth in Subsection (b).

### **28 CCR 1300.68(e)**

(e) The plan's grievance system shall track and monitor grievances received by the plan, or any entity with delegated authority to receive or respond to grievances. The system shall:

(1) Monitor the number of grievances received and resolved; whether the grievance was resolved in favor of the enrollee or plan; and the number of grievances pending over 30 calendar days. The system shall track grievances under categories of Commercial, Medicare and Medi-Cal/other contracts. The system shall indicate whether an enrollee grievance is pending at: 1) the plan's internal grievance system; 2) the Department's consumer complaint process; 3) the Department's

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Independent Medical Review system; 4) an action filed or before a trial or appellate court; or 5) other dispute resolution process. Additionally, the system shall indicate whether an enrollee grievance has been submitted to: 1) the Medicare review and appeal system; 2) the Medi-Cal fair hearing process; or 3) arbitration.

(2) The system shall be able to indicate the total number of grievances received, pending and resolved in favor of the enrollee at all levels of grievance review and to describe the issue or issues raised in grievances as 1) coverage disputes, 2) disputes involving medical necessity, 3) complaints about the quality of care and 4) complaints about access to care (including complaints about the waiting time for appointments), and 5) complaints about the quality of service, and 6) other issues.

### **28 CCR 1300.68(f)(1)**

All plans shall submit a quarterly report to the Department describing grievances that were or are pending and unresolved for 30 days or more. The report shall be prepared for the quarters ending March 31st, June 30th, September 30th and December 31st of each calendar year. The report shall also contain the number of grievances referred to external review processes, such as reconsiderations of Medicare Managed Care determinations pursuant to 42 C.F.R. Part 422, the Medi-Cal fair hearing process, the Department's complaint or Independent Medical Review system, or other external dispute resolution systems, known to the plan as of the last day of each quarter.

### **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Optometric Director and/or officer who has primary responsibility for the grievance system
- Manager of Member Services
- QM Director
- Director of Operations

### **DOCUMENT(S) TO BE REVIEWED**

- Description of the grievance system
- Position description of the officer with primary responsibility for the grievance system
- Policy and procedure for generation and review of aggregated and tabulated grievances
- Grievance logs
- Grievance forms
- Policies and procedures to maintain a system of aging of grievances pending and unresolved for 30 calendar days or more
- Policy and procedure to report quarterly to the DMHC all grievances pending and unresolved for 30 calendar days or more
- Policies and procedures for the processing of grievances
- Committee Minutes (Governing Body, QA, Public Policy, Grievance Committee, etc.), including grievance reports reviewed



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- Reports and analysis by Plan's grievance officer regarding emergent patterns of grievances for most recent 6-12 month period.
- Review licensing filing of the Plan's Grievance program and confirm submission of appropriate policies and procedures

### GA-001 - Key Element 1:

- 1. The Plan has a grievance system, approved by the Department, for the receipt, review, and resolution of grievances.**  
**CA Health and Safety Code section 1368(a); 28 CCR 1300.68(a); 28 CCR 1300.68(b)(8); 28 CCR 1300.68(d)(6)**

Assessment Questions	Yes	No	N/A
1.1 Does the Plan have a written description of its grievance system?			
1.2 Does the grievance system description include grievance system <b><u>structure</u></b> including personnel, lines of authority, forms, and grievance materials?			
1.3 Does the grievance system description include grievance system <b><u>scope</u></b> including a clear definition of the grievance system and use of terms (e.g., grievance, complaint, complainant, resolved, and pending), proper assistance provided to enrollees, length of time for filing grievances, consideration for the linguistic and cultural needs of the enrollee population and the needs of enrollees with disabilities?			
1.4 Does the grievance system description include grievance system <b><u>processes</u></b> including filing a grievance, grievance filing, and resolution timeframes, assistance provided to enrollees, logging and responding to a grievance, evaluating and resolving a grievance, and enrollee communications?			
1.5 Does the grievance system description include <b><u>oversight of delegated entities</u></b> , as applicable, and procedures for oversight?			
1.6 Does the grievance system description include grievance system <b><u>monitoring procedures</u></b> including a description of how the Plan's grievance officer continuously reviews the operation of the grievance system to identify any emergent patterns of grievances and how the Plan might use various grievance reports to improve service or care (i.e., improve Plan policies and procedures)?			



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Assessment Questions	Yes	No	N/A
1.7 Does the Plan's grievance system provide for the maintenance of copies of grievances and responses for five years, which shall include a copy of all medical records, documents, evidence of coverage and other relevant information upon which the Plan relied in reaching its decision?			
1.8 If the Plan has multiple levels of grievance/appeal, are all levels completed within 30 days?			
1.9 Does the Plan assure that there is no discrimination against an enrollee or subscriber (including cancellation of the contract) on the grounds that the complainant filed a grievance?			

### GA-001 - Key Element 2:

- 2. There is an officer of the Plan who has primary responsibility for the grievance process who identifies and reports emergent patterns of grievances to formulate policy changes and procedural improvements in the Plan's administration.**  
**CA Health and Safety Code section 1367.01(j); 28 CCR 1300.68(b)(1) and (5); 28 CCR 1300.68(d)(2)**

Assessment Questions	Yes	No	N/A
2.1 Is there a designated Plan officer who has primary responsibility for oversight and evaluation of the grievance process?			
2.2 Does this officer identify and report patterns of grievances to formulate policy changes and procedural improvements in Plan administration?			
2.3 Does this officer regularly monitor Plan compliance with grievance regulations, policies, and procedures?			
2.4 Does the Plan regularly conduct aggregate analysis of grievances and appeals to track and trend potential issues and barriers to care?			
2.5 Does the Plan's grievance officer or his designee review the written record of grievances periodically and document such review?			
2.6 Does the Plan's governing body review the written record of grievances periodically and document such review?			
2.7 Does the Plan's grievance process require that management responsible for the operational area that is the subject of the grievance review such grievances?			

### GA-001 - Key Element 3:

- 3. The Plan has established an effective mechanism for documenting and tracking grievances.**  
**CA Health and Safety Code section 1368(a)(4)(B); 28 CCR 1300.68(b)(5); 28 CCR 1300.68(d)(8); 28 CCR 1300.68(e)**

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Assessment Questions	Yes	No	N/A
3.1 Does the Plan keep a written record of each grievance received; including the date received, the Plan representative recording the grievance, a summary or other documents describing the grievance, and its disposition?			
3.2 Does the Plan's grievance system have the capability of indicating the total number of grievances received, pending, and resolved <b><u>in favor of the enrollee?</u></b>			
3.3 Does the Plan's grievance system have the capability of indicating the total number of grievances received, pending and resolved <b><u>at all levels of grievance review?</u></b>			
3.4 Does the Plan's grievance system have the capability of indicating the total number of grievances received, pending and resolved <b><u>describing the issue or issues raised in grievances</u></b> as 1) coverage disputes, 2) disputes involving medical necessity, 3) complaints about the quality of care, 4) complaints about access to care (including complaints about the waiting time for appointments), 5) complaints about the quality of service, and 6) other issues?			
3.5 Does the Plan's grievance system track the number and percentage of grievances pending over 30 calendar days?			
3.6 For grievances exempt from acknowledgement requirements (grievances received over the phone, resolved the next day, and not coverage, medical necessity or experimental/investigational disputes) does the Plan maintain a log of such grievances?			
3.7 For grievances exempt from acknowledgement requirements (grievances received over the phone, resolved the next day, and not coverage, medical necessity or experimental/investigational disputes) does the log include the date of the call, the name and id number of the complainant, the nature of the grievance, the resolution, and the representative who took the call and resolved the grievance?			

### End of Requirement GA-001: Grievance System Description

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### Requirement GA-002: Grievance Filing

#### STATUTORY/REGULATORY CITATION(S)

##### **CA Health and Safety Code section 1368.015**

(a) Effective July 1, 2003, every plan with a Web site shall provide an online form through its Web site that subscribers or enrollees can use to file with the plan a grievance, as described in Section 1368, online.

(b) The Web site shall have an easily accessible online grievance submission procedure that shall be accessible through a hyperlink on the Web site's home page or member services portal clearly identified as "GRIEVANCE FORM." All information submitted through this process shall be processed through a secure server.

(c) The online grievance submission process shall be approved the Department of Managed Health Care and shall meet the following requirements:

- (1) It shall utilize an online grievance form in HTML format that allows the user to enter required information directly into the form.
- (2) It shall allow the subscriber or enrollee to preview the grievance that will be submitted, including the opportunity to edit the form prior to submittal.
- (3) It shall include a current hyperlink to the California Department of Managed Health Care Web site, and shall include a statement in a legible font that is clearly distinguishable from other content on the page and is in a legible size and type, containing the following language: [See 1368.02(b) above for the specific language]. The plan shall update the URL, hyperlink, and telephone numbers in this statement as necessary.

##### **CA Health and Safety Code section 1368.02(b)**

Every health care service plan shall publish the Department's toll-free telephone number, the Department's TDD line for the hearing and speech impaired, the plan's telephone number, and the Department's Internet address, on every plan contract, on every evidence of coverage, on copies of plan grievance procedures, on plan complaint forms, and on all written notices to enrollees required under the grievance process of the plan, including any written communications to an enrollee that offer the enrollee the opportunity to participate in the grievance process of the plan and on all written responses to grievances. The Department's telephone number, the Department's TDD line, the plan's telephone number, and the Department's Internet address shall be displayed by the plan in each of these documents in 12-point boldface type in the following regular type statement:

"The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at **(insert health plan's telephone number)** and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to

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you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number **(1-888-HMO-2219)** and a TDD line **(1-877-688-9891)** for the hearing and speech impaired. The department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online."

### **28 CCR 1300.68(b)(3)**

(b) The plan's grievance system shall include the following:

(3) The grievance system shall address the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities. The system shall ensure all enrollees have access to and can fully participate in the grievance system by providing assistance for those with limited English proficiency or with a visual or other communicative impairment. Such assistance shall include, but is not limited to, translations of grievance procedures, forms, and plan responses to grievances, as well as access to interpreters, telephone relay systems and other devices that aid disabled individuals to communicate.

### **28 CCR 1300.68(b)(4)**

(b) The plan's grievance system shall include the following:

(4) The plan shall maintain a toll-free number, or a local telephone number in each service area, for the filing of grievances.

### **28 CCR 1300.68(b)(6) and (7)**

(b) The plan's grievance system shall include the following:

(6) The plan grievance system shall ensure that assistance in filing grievances shall be provided at each location where grievances may be submitted. A "patient advocate" or ombudsperson may be used.

(7) Grievance forms and a description of the grievance procedure shall be readily available at each facility of the plan, on the plan's website, and from each contracting provider's office or facility. Grievance forms shall be provided promptly upon request.

## **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Optometric Director
- Officer with primary responsibility for the grievance system

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- Information Technology Officer
- Manager of Member Services

### DOCUMENT(S) TO BE REVIEWED

- Policies and procedures for the filing of grievances at each facility of the Plan, on the Plan's Web site and from each contracting provider's office or facility
- Policies and procedures that describe how the Plan addresses the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities
- Grievance forms and description of the grievance procedure that are made available at Plan and provider sites
- Grievance forms and other materials for those with limited English proficiency or with a visual or other communicative impairment
- Plan Web site
- Web site system documentation, flow charts, and protocols
- Evidence of toll-free or local numbers for each service area
- Toll-free or local telephone number wait-time and abandonment rate reports

### GA-002 - Key Element 1:

1. **The Plan ensures that grievance forms, a description of the grievance procedure, and assistance in filing grievances are readily available at each contracting provider's office, contracting facility, or Plan facility.**  
**28 CCR 1300.68(b)(6) and (7)**

Assessment Questions	Yes	No	N/A
1.1 Does the Plan provide assistance in filing grievances at each location where grievances may be submitted?			
1.2 Is <b><u>assistance</u></b> in filing grievances readily available at each <b><u>facility</u></b> of the Plan?			
1.3 Is <b><u>assistance</u></b> in filing grievances readily available at each contracting <b><u>provider's office</u></b> or facility?			
1.4 Are <b><u>grievance forms</u></b> and description of the grievance procedure readily <b><u>available</u></b> at each <b><u>Plan facility</u></b> ?			
1.5 Are <b><u>grievance forms</u></b> and description of the grievance procedure readily <b><u>available</u></b> at each contracting <b><u>provider's office</u></b> or facility?			
1.6 Are <b><u>grievance forms</u></b> and description of the grievance procedure readily <b><u>available</u></b> at the Plan's <b><u>Web site</u></b> ?			

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### **GA-002 - Key Element 2:**

- 2. The Plan maintains a toll-free or local telephone number in each service area, for the filing of grievances.**  
**28 CCR 1300.68(b)(4)**

Assessment Questions	Yes	No	N/A
2.1 Does the Plan have at least one toll-free or local telephone number for the filing of grievances located within each service area?			
2.2 Is the telephone number reasonably accessible?			

### **GA-002 - Key Element 3:**

- 3. The Plan's grievance system effectively addresses the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities.**  
**28 CCR 1300.68(b)(3)**

Assessment Questions	Yes	No	N/A
3.1 Does the Plan provide assistance for those with Limited English Proficiency?			
3.2 Does the Plan provide assistance for those with a visual, hearing, or other communicative impairment?			
3.3 Does the Plan's assistance include translations of grievance procedures, forms, and Plan responses to grievances, as well as access to interpreters, telephone relay systems and other devices that aid disabled individuals to communicate?			

### **GA-002 - Key Element 4:**

- 4. The Plan has an online grievance submission procedure.**  
**CA Health and Safety Code section 1368.015; CA Health and Safety Code section 1368.02(b)**

Assessment Questions	Yes	No	N/A
4.1 Does the Plan have an online grievance submission process?			
4.2 Is the process easily accessible through a hyperlink on the Web site's home page or member services portal clearly identified as, "GRIEVANCE FORM?"			
4.3 Does the process utilize an online grievance form that allows the user to enter required information directly into the form?			
4.4 Does the process allow the grievant/complainant to preview and edit the grievance form prior to submission?			
4.5 Does the process include a hyperlink to the DMHC Web site?			

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Assessment Questions	Yes	No	N/A
4.6 Does the process include a statement in a legible font and size clearly distinguishable from other content on the page containing the statement from 1368.02(b) in which URL, hyperlink, and telephone numbers are updated as necessary?			
4.7 Is all information submitted online done through a secure server?			

### End of Requirement GA-002: Grievance Filing



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### Requirement GA-003: Grievance Receipt, Review and Resolution

#### STATUTORY/REGULATORY CITATION(S)

##### **CA Health & Safety Code section 1367.01(e)**

(e) No individual, other than a licensed physician or a licensed health care professional who is competent to evaluate the specific clinical issues involved in the health care services requested by the provider, may deny or modify requests for authorization of health care services for an enrollee for reasons of medical necessity. The decision of the physician or other health care professional shall be communicated to the provider and the enrollee pursuant to subdivision (h).

##### **CA Health and Safety Code section 1368(a)(1)**

(a) Every plan shall do all of the following:

(1) Establish and maintain a grievance system approved by the department under which enrollees may submit their grievances to the plan. Each system shall provide reasonable procedures in accordance with department regulations that shall ensure adequate consideration of enrollee grievances and rectification when appropriate.

##### **CA Health and Safety Code section 1368(c)**

(c) The plan's grievance system shall include a system of aging of grievances that are pending and unresolved for 30 days or more. The plan shall provide a quarterly report to the director of grievances pending and unresolved for 30 or more days with separate categories of grievances for Medicare enrollees and Medi-Cal enrollees. The plan shall include with the report a brief explanation of the reasons each grievance is pending and unresolved for 30 days or more. The plan may include the following statement in the quarterly report that is made available to the public by the director:

"Under Medicare and Medi-Cal law, Medicare enrollees and Medi-Cal enrollees each have separate avenues of appeal that are not available to other enrollees. Therefore, grievances pending and unresolved may reflect enrollees pursuing their Medicare or Medi-Cal appeal rights."

If requested by a plan, the director shall include this statement in a written report made available to the public and prepared by the director that describes or compares grievances that are pending and unresolved with the plan for 30 days or more. Additionally, the director shall, if requested by a plan, append to that written report a brief explanation, provided in writing by the plan, of the reasons why grievances described in that written report are pending and unresolved for 30 days or more. The director shall not be required to include a statement or append a brief explanation to a written report that the director is required to prepare under this chapter, including Sections 1380 and 1397.5.

##### **CA Health and Safety Code section 1368.01(a)**

(a) The grievance system shall require the plan to resolve grievances within 30 days.

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### **CA Health and Safety Code section 1368.02(b)**

(b) Every health care service plan shall publish the department's toll-free telephone number, the department's TDD line for the hearing and speech impaired, the plan's telephone number, and the department's Internet address, on every plan contract, on every evidence of coverage, on copies of plan grievance procedures, on plan complaint forms, and on all written notices to enrollees required under the grievance process of the plan, including any written communications to an enrollee that offer the enrollee the opportunity to participate in the grievance process of the plan and on all written responses to grievances. The department's telephone number, the department's TDD line, the plan's telephone number, and the department's Internet address shall be displayed by the plan in each of these documents in 12-point boldface type in the following regular type statement:

“The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at **(insert health plan's telephone number)** and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number **(1-888-HMO-2219)** and a TDD line **(1-877-688-9891)** for the hearing and speech impaired. The department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online.”

### **CA Health and Safety Code section 1370.2**

Upon an appeal to the plan of a contested claim, the plan shall refer the claim to the medical director or other appropriately licensed health care provider. This health care provider or the medical director shall review the appeal and, if he or she determines that he or she is competent to evaluate the specific clinical issues presented in the claim, shall make a determination on the appealed claim. If the health care provider or medical director determines that he or she is not competent to evaluate the specific clinical issues of the appealed claim, prior to making a determination, he or she shall consult with an appropriately licensed health care provider who is competent to evaluate the specific clinical issues presented in the claim. For the purposes of this section, “competent to evaluate the specific clinical issues” means that the reviewer has education, training, and relevant expertise that is

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pertinent for evaluating the specific clinical issues that serve as the basis of the contested claim. The requirements of this section shall apply to claims that are contested on the basis of a clinical issue, the necessity for treatment, or the type of treatment proposed or utilized. The plan shall determine whether or not to use an appropriate specialist provider in the review of contested claims.

### **CA Health and Safety Code section 1374.30(m)**

(m) As part of its notification to the enrollee regarding a disposition of the enrollee's grievance that denies, modifies, or delays health care services, the plan shall provide the enrollee with a one-page application form approved by the department, and an addressed envelope, which the enrollee may return to initiate an independent medical review. The plan shall include on the form any information required by the department to facilitate the completion of the independent medical review, such as the enrollee's diagnosis or condition, the nature of the disputed health care service sought by the enrollee, a means to identify the enrollee's case, and any other material information. The form shall also include the following:

(1) Notice that a decision not to participate in the independent medical review process may cause the enrollee to forfeit any statutory right to pursue legal action against the plan regarding the disputed health care service.

(2) A statement indicating the enrollee's consent to obtain any necessary medical records from the plan, any of its contracting providers, and any out-of-plan provider the enrollee may have consulted on the matter, to be signed by the enrollee.

(3) Notice of the enrollee's right to provide information or documentation, either directly or through the enrollee's provider, regarding any of the following:

(A) A provider recommendation indicating that the disputed health care service is medically necessary for the enrollee's medical condition.

(B) Medical information or justification that a disputed health care service, on an urgent care or emergency basis, was medically necessary for the enrollee's medical condition.

(C) Reasonable information supporting the enrollee's position that the disputed health care service is or was medically necessary for the enrollee's medical condition, including all information provided to the enrollee by the plan or any of its contracting providers, still in the possession of the enrollee, concerning a plan or provider decision regarding disputed health care services, and a copy of any materials the enrollee submitted to the plan, still in the possession of the enrollee, in support of the grievance, as well as any additional material that the enrollee believes is relevant.

### **28 CCR 1300.68(a)(4)(A)**

(a) The grievance system shall be established in writing and provide for procedures that will receive, review and resolve grievances within 30 calendar days of receipt by the plan, or any provider or entity with delegated authority to administer and resolve the plan's grievance system. The following definitions shall apply with respect to the regulations relating to grievance systems:

(4) "Resolved" means that the grievance has reached a final conclusion with respect to the enrollee's submitted grievance, and there are no pending enrollee appeals within the plan's grievance system, including entities with delegated authority.

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(A) If the plan has multiple internal levels of grievance resolution or appeal, all levels must be completed within 30 calendar days of the plan's receipt of the grievance.

### **28 CCR 1300.68(b)(3)**

(b) The plan's grievance system shall include the following:

(3) The grievance system shall address the linguistic and cultural needs of its enrollee population as well as the needs of enrollees with disabilities. The system shall ensure all enrollees have access to and can fully participate in the grievance system by providing assistance for those with limited English proficiency or with a visual or other communicative impairment. Such assistance shall include, but is not limited to, translations of grievance procedures, forms, and plan responses to grievances, as well as access to interpreters, telephone relay systems and other devices that aid disabled individuals to communicate.

### **28 CCR 1300.68(d)(1)**

(d) The plan shall respond to grievances as follows:

(1) A grievance system shall provide for a written acknowledgment within five (5) calendar days of receipt, except as noted in subsection (d)(8). The acknowledgment will advise the complainant that the grievance has been received, the date of receipt, and provide the name of the plan representative, telephone number and address of the plan representative who may be contacted about the grievance.

### **28 CCR 1300.68(d)(3)**

(d) The plan shall respond to grievances as follows:

(3) The plan's resolution, containing a written response to the grievance shall be sent to the complainant within thirty (30) calendar days of receipt, except as noted in subsection (d)(8). The written response shall contain a clear and concise explanation of the plan's decision. Nothing in this regulation requires a plan to disclose information to the grievant that is otherwise confidential or privileged by law.

### **28 CCR 1300.68(d)(4)**

(d) The plan shall respond to grievances as follows:

(4) For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is not medically necessary, the plan shall include in its written response, the reasons for its determination. The response shall clearly state the criteria, clinical guidelines or medical policies used in reaching the determination. The plan's response shall also advise the enrollee that the determination may be considered by the Department's independent medical review system. The response shall include an application for independent medical review and instructions, including the Department's toll-free telephone number for further information and an envelope addressed to the Department of Managed Health Care, HMO Help Center, 980 Ninth Street, 5<sup>th</sup> Floor, Sacramento, CA 95814.

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### **28 CCR 1300.68(d)(5)**

(d) The plan shall respond to grievances as follows:

(5) Plan responses to grievances involving a determination that the requested service is not a covered benefit shall specify the provision in the contract, evidence of coverage or member handbook that excludes the service. The response shall either identify the document and page where the provision is found, direct the grievant to the applicable section of the contract containing the provision, or provide a copy of the provision and explain in clear concise language how the exclusion applied to the specific health care service or benefit requested by the enrollee. In addition to the notice set forth at Section 1368.02(b) of the Act, the response shall also include a notice that if the enrollee believes the decision was denied on the grounds that it was not medically necessary, the Department should be contacted to determine whether the decision is eligible for an independent medical review.

### **28 CCR 1300.68(d)(7)**

(d) The plan shall respond to grievances as follows:

(7) The Department's telephone number, the California Relay Service's telephone numbers, the plan's telephone number and the Department's Internet address shall be displayed in all of the plan's acknowledgments and responses to grievances in 12-point boldface type with the statement contained in subsection (b) of Section 1368.02 of the Act.

### **28 CCR 1300.68(d)(8)**

(d) The plan shall respond to grievances as follows:

(8) Grievances received over the telephone that are not coverage disputes, disputed health care services involving medical necessity or experimental or investigational treatment, and that are resolved by the close of the next business day, are exempt from the requirement to send a written acknowledgment and response. The plan shall maintain a log of all such grievances containing the date of the call, the name of the complainant, member identification number, nature of the grievance, nature of resolution, and the plan representative's name who took the call and resolved the grievance. The information contained in this log shall be periodically reviewed by the plan as set forth in Subsection (b).

## **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Optometric Director
- Officer with primary responsibility for the grievance system
- Information Technology Officer
- Manager of Member Services

## **DOCUMENT(S) TO BE REVIEWED**

- Policies and procedures that describe the grievance system and processes
- Sample of grievance and appeal template letters

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- Documentation of translated Plan responses to grievances in languages other than English
- Sample of grievance/appeal files to be reviewed on site

### GA-003 - Key Element 1:

1. **The Plan acknowledges grievances and appeals in writing within five (5) calendar days of receipt.**  
**28 CCR 1300.68(d)(1)**

Assessment Question	Yes	No	N/A
1.1 Does the Plan consistently acknowledge grievances and appeals in writing <b><u>within five (5) calendar days</u></b> of receipt (except as noted in 28 CCR 1300.68(d)(8))? <b>(Standard Grievance/Appeals Worksheet #11)</b>			

### GA-003 - Key Element 2:

2. **The Plan's written acknowledgment contains all required information.**  
**CA Health and Safety Code section 1368.02(b); 28 CCR 1300.68(b)(3); 28 CCR 1300.68(d)(1) and (7)**

Assessment Questions	Yes	No	N/A
2.1 Does the Plan's written acknowledgment advise the grievant of the date the Plan received the grievance? <b>(Standard Grievance/Appeals Worksheet #12)</b>			
2.2 Does the Plan's written acknowledgment provide the name, address, and telephone number of the Plan representative who may be contacted about the grievance? <b>(Standard Grievance/Appeals Worksheet #13)</b>			
2.3 Does the Plan's written acknowledgment display the Plan's telephone number, the Department's telephone number, TDD line, and Internet address in 12-point boldface type with the required statement contained in subsection (b) of Section 1368.02 of the Act? <b>(Standard Grievance/Appeals Worksheet #14)</b>			
2.4 Do acknowledgements address the language and disability needs of enrollees by providing assistance (including translation and interpretation services, access to telephone relay services, and other devices to aid disabled enrollees)? <b>(Standard Grievance/Appeals Worksheet #15)</b>			

### GA-003 - Key Element 3:

3. **The Plan resolves grievances (all levels) in a timely manner.**  
**28 CCR 1300.68(a)(4)(A); 28 CCR 1300.68(b)(3); 28 CCR 1300.68(d)(3)**



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Assessment Questions	Yes	No	N/A
3.1 Does the Plan consistently resolve non-urgent grievances (all levels) and send its written resolution to the grievant <b><u>within 30 calendar days</u></b> of Plan receipt of the grievance? <b>(Standard Grievance/Appeals Worksheet #18)</b>			
3.2 If the Plan cannot resolve the grievance within 30 calendar days, does the Plan report the grievance as pending or unresolved in its quarterly report to the Department?			

### GA-003 -Key Element 4:

- 4. The Plan's written response contains all required information.**  
CA Health and Safety Code section 1367.01(e); CA Health; Safety Code section 1370.2; 28 CCR 1300.68(b)(3); 28 CCR 1300.68(d)(4), (5) and (7)

Assessment Questions	Yes	No	N/A
4.1 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain a <b><u>clear and concise explanation</u></b> of the Plan's decision? <b>(Standard Grievance/Appeals Worksheet #24)</b>			
4.2 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain the <b><u>criteria</u></b> , clinical guidelines, or medical policies used in reaching the determination? <b>(Standard Grievance/Appeals Worksheet #23)</b>			
4.3 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain <b><u>notification</u></b> that the determination may be considered by the Department's <b><u>independent medical review</u></b> system? <b>(Standard Grievance/Appeals Worksheet #26)</b>			
4.4 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain an <b><u>application</u></b> for independent medical review (IMR) and instructions? <b>(Standard Grievance/Appeals Worksheet #26)</b>			
4.5 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain the <b><u>Department's</u></b> toll-free <b><u>telephone number</u></b> for further information? <b>(Standard Grievance/Appeals Worksheet #26)</b>			



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Assessment Questions	Yes	No	N/A
4.6 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b><u>not medically necessary</u></b> , does each response contain an <b><u>envelope</u></b> addressed to the <b><u>Department of Managed Health Care</u></b> , HMO Help Center, 980 Ninth Street, 5th Floor, Sacramento, CA 95814? <b>(Standard Grievance/Appeals Worksheet #26)</b>			
4.7 For grievances involving <b><u>medical necessity</u></b> or other clinical issues, does the Plan appropriately refer the grievance for <b><u>review</u></b> to a licensed <b><u>healthcare professional</u></b> competent to evaluate the clinical issues of the grievance? <b>(Standard Grievance/Appeals Worksheet #20)</b>			
4.8 For grievances involving a determination that the requested service is <b><u>not a covered benefit</u></b> , does each response contain the <b><u>specific provision</u></b> in the contract, <b><u>EOC</u></b> or member handbook that excludes the services (either by identifying the document and page where the provision is found, by directing the grievant to the applicable section of the contract or by providing a copy of the provision)? <b>(Standard Grievance/Appeals Worksheet #22)</b>			
4.9 For grievances involving a determination that the requested service is <b><u>not a covered benefit</u></b> , does each response contain <b><u>clear and concise</u></b> language that explains how the exclusion applied to the specific health care service or benefit requested by the enrollee? <b>(Standard Grievance/Appeals Worksheet #24)</b>			
4.10 For grievances involving a determination that the requested service is <b><u>not a covered benefit</u></b> , does each response contain <b><u>notice</u></b> that if the <b><u>enrollee believes</u></b> the decision was denied on the grounds that it was <b><u>not medically necessary</u></b> , the Department should be contacted to determine whether the decision is eligible for an <b><u>independent medical review</u></b> ? <b>(Standard Grievance/Appeals Worksheet #26)</b>			
4.11 For grievances involving <b><u>contested claims</u></b> , does the Plan appropriately refer the claim for review to a <b><u>licensed</u></b> and competent health care provider to <b><u>evaluate</u></b> the clinical issues of the appealed claim, as applicable?			
4.12 Does the written response display the Department's telephone number, the CA Relay Service's telephone numbers, the Plan's telephone number and the Department's internet address in 12-point boldface type with the statement contained Section 1368.02(b) of the Act? <b>(Standard Grievance/Appeals Worksheet #21)</b>			

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Assessment Questions	Yes	No	N/A
4.13 Do Plan responses address the language and disability needs of enrollees by providing assistance (including translation and interpretation services, access to telephone relay services, and other devices to aid disabled enrollees)? <b>(Standard Grievance/Appeals Worksheet #25)</b>			
4.14 Does the Plan ensure adequate consideration and rectification of enrollee grievances when appropriate? <b>(Standard Grievance/Appeals Worksheet #27)</b>			
4.15 Do the Plan's resolution letters address all grievance issues? <b>(Standard Grievance/Appeals Worksheet #29)</b>			

### End of Requirement GA-003: Receipt, Review and Resolution

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### Requirement GA-004: Enrollee Education/Notification Requirements

#### STATUTORY/REGULATORY CITATION(S)

##### **CA Health and Safety Code section 1368(a)(2)**

[Every plan shall...] Inform its subscribers and enrollees upon enrollment in the plan and annually thereafter of the procedure for processing and resolving grievances. The information shall include the location and telephone number where grievances may be submitted.

##### **CA Health and Safety Code section 1368.02(b)**

Every health care service plan shall publish the Department's toll-free telephone number, the Department's TDD line for the hearing and speech impaired, the plan's telephone number, and the Department's Internet address, on every plan contract, on every evidence of coverage, on copies of plan grievance procedures, on plan complaint forms, and on all written notices to enrollees required under the grievance process of the plan, including any written communications to an enrollee that offer the enrollee the opportunity to participate in the grievance process of the plan and on all written responses to grievances. The Department's telephone number, the Department's TDD line, the plan's telephone number, and the Department's Internet address shall be displayed by the plan in each of these documents in 12-point boldface type in the following regular type statement:

The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at **(insert health plan's telephone number)** and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number **(1-888-HMO-2219)** and a TDD line **(1-877-688-9891)** for the hearing and speech impaired. The department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms and instructions online.

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### **CA Health and Safety Code section 1374.30(e)**

(e) Every health care service plan contract that is issued, amended, renewed, or delivered in this state on or after January 1, 2000, shall, effective January 1, 2001, provide an enrollee with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the plan, or by one of its contracting providers, if the decision was based in whole or in part on a finding that the proposed health care services are not medically necessary. For purposes of this article, an enrollee may designate an agent to act on his or her behalf, as described in paragraph (2) of subdivision (b) of Section 1368. The provider may join with or otherwise assist the enrollee in seeking an independent medical review, and may advocate on behalf of the enrollee.

### **CA Health and Safety Code section 1374.30(i)**

No later than January 1, 2001, every health care service plan shall prominently display in every plan member handbook or relevant informational brochure, in every plan contract, on enrollee evidence of coverage forms, on copies of plan procedures for resolving grievances, on letters of denials issued by either the plan or its contracting organization, on the grievance forms required under Section 1368, and on all written responses to grievances, information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the plan, or by one of its contracting providers.

### **28 CCR 1300.68(b)(2)**

(b) The plan's grievance system shall include the following:

(2) Each plan's obligation for notifying subscribers and enrollees about the plan's grievance system shall include information on the plan's procedures for filing and resolving grievances, and the telephone number and address for presenting a grievance. The notice shall also include information regarding the Department's review process, the independent medical review system, and the Department's toll-free telephone number and website address.

### **28 CCR 1300.68(b)(9)**

(b) The plan's grievance system shall include the following:

(9) The grievance system shall allow enrollees to file grievances for at least 180 calendar days following any incident or action that is the subject of the enrollee's dissatisfaction.

## **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

### **Staff responsible for the activities described above, for example:**

- Officer designated with having primary responsibility for the grievance system
- Staff involved in the grievance process
- Staff of Member Services
- Officer or staff responsible for member education

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### DOCUMENT(S) TO BE REVIEWED

- Enrollee/Member handbook
- Evidence of Coverage (EOC)
- Copies of Plan grievance procedure
- Grievance forms (Including availability at each facility of the Plan, on the Plan's Web site, and from each contracting provider's office or facility)
- Denial letter templates (claims, prior authorization, etc.)
- Documents used by the Plan to communicate to enrollees the telephone numbers for filing grievances (i.e. informational brochures, enrollee handbook, etc.)
- Documents used by the Plan to notify subscribers and enrollees of the grievance system upon enrollment and annually thereafter

### GA-004 - Key Element 1:

1. The Plan informs its enrollees upon enrollment and annually thereafter of the procedure for processing and resolving grievances.

CA Health and Safety Code section 1368(a)(2); 28 CCR 1300.68(b)(2) and (9)

Assessment Questions	Yes	No	N/A
1.1 Does the Plan provide enrollees upon enrollment and on an annual basis with the Plan's procedures for filing and resolving grievances?			
1.2 Does the Plan provide enrollees upon enrollment and on an annual basis with the locations and telephone numbers (i.e., a toll-free number or a local telephone number in each service area) for filing complaints and grievances?			
1.3 Does the Plan provide enrollees upon enrollment and on an annual basis with the requirements for timely filing of grievances (within 180 calendar days following any incident or action that is the subject of the enrollee's dissatisfaction)?			
1.4 Does the Plan provide enrollees with information regarding the Department's review process, the independent medical review system, and the Department's toll-free telephone number and Web site address?			

### GA-004 - Key Element 2:

2. The Plan displays the required notice set forth at section 1368.02(b) in all relevant written materials.

CA Health and Safety Code section 1368.02(b)

Assessment Questions	Yes	No	N/A
2.1 Does the Plan display the required notice set forth at section 1368.02(b) in all relevant informational materials including enrollee handbook?			

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2.2	Does the Plan display the required notice set forth at section 1368.02(b) in every Plan contract?			
2.3	Does the Plan display the required notice set forth at section 1368.02(b) in every evidence of coverage?			
2.4	Does the Plan display the required notice set forth at section 1368.02(b) in copies of Plan grievance procedures?			
2.5	Does the Plan display the required notice set forth at section 1368.02(b) in Plan complaint/grievance forms?			
2.6	Does the Plan display the required notice set forth at section 1368.02(b) in any written communications to an enrollee that offer the enrollee the opportunity to participate in the grievance process of the Plan?			

### GA-003 - Key Element 3:

- 3. The Plan includes the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in all relevant informational materials and all written communications to enrollees.**

**CA Health and Safety Code section 1374.30(i)**

Assessment Questions		Yes	No	N/A
3.1	Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in all relevant informational materials including <b>enrollee handbook</b> ?			
3.2	Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in every Plan <b>contract</b> ?			
3.3	Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in every <b>evidence of coverage</b> (EOC)?			
3.4	Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in copies of Plan <b>grievance procedures</b> ?			

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Assessment Questions	Yes	No	N/A
3.5 Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in Plan <b><u>complaint/grievance forms</u></b> ?			
3.6 Does the Plan include the information concerning the right of an enrollee to request an independent medical review in cases where the enrollee believes that health care services have been improperly denied, modified, or delayed by the Plan, or by one of its contracting providers in any written communications to an enrollee that offer the enrollee the <b><u>opportunity to participate</u></b> in the <b><u>grievance process</u></b> of the Plan?			

### End of Requirement GA-004: Enrollee Education / Notification Requirements



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### Requirement GA-005: Expedited Review of Urgent Grievances

#### STATUTORY/REGULATORY CITATION(S)

##### CA Health and Safety Code section 1368.01(b)

(b) The grievance system shall include a requirement for expedited plan review of grievances for cases involving an imminent and serious threat to the health of the patient, including, but not limited to, severe pain, potential loss of life, limb, or major bodily function. When the plan has notice of a case requiring expedited review, the grievance system shall require the plan to immediately inform enrollees and subscribers in writing of their right to notify the Department of the grievance. The grievance system shall also require the plan to provide enrollees, subscribers, and the Department with a written statement on the disposition or pending status of the grievance no later than three days from receipt of the grievance.

##### CA Health and Safety Code section 1368.02(b)

(b) Every health care service plan shall publish the department's toll-free telephone number, the department's TDD line for the hearing and speech impaired, the plan's telephone number, and the department's Internet address, on every plan contract, on every evidence of coverage, on copies of plan grievance procedures, on plan complaint forms, and on all written notices to enrollees required under the grievance process of the plan, including any written communications to an enrollee that offer the enrollee the opportunity to participate in the grievance process of the plan and on all written responses to grievances. The department's telephone number, the department's TDD line, the plan's telephone number, and the department's Internet address shall be displayed by the plan in each of these documents in 12-point boldface type in the following regular type statement:

"The California Department of Managed Health Care is responsible for regulating health care service plans. If you have a grievance against your health plan, you should first telephone your health plan at **(insert health plan's telephone number)** and use your health plan's grievance process before contacting the department. Utilizing this grievance procedure does not prohibit any potential legal rights or remedies that may be available to you. If you need help with a grievance involving an emergency, a grievance that has not been satisfactorily resolved by your health plan, or a grievance that has remained unresolved for more than 30 days, you may call the department for assistance. You may also be eligible for an Independent Medical Review (IMR). If you are eligible for IMR, the IMR process will provide an impartial review of medical decisions made by a health plan related to the medical necessity of a proposed service or treatment, coverage decisions for treatments that are experimental or investigational in nature and payment disputes for emergency or urgent medical services. The department also has a toll-free telephone number **(1-888-HMO-2219)** and a TDD line **(1-877-688-9891)** for the hearing and speech impaired. The Department's Internet Web site <http://www.hmohelp.ca.gov> has complaint forms, IMR application forms

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and instructions online."

### **28 CCR 1300.68.01(a) and (b)**

(a) Every plan shall include in its grievance system, procedures for the expedited review of grievances involving an imminent and serious threat to the health of the enrollee, including, but not limited to, severe pain, potential loss of life, limb or major bodily function ("urgent grievances"). At a minimum, plan procedures for urgent grievances shall include:

(1) Immediate notification to the complainant of the right to contact the Department regarding the grievance. The plan shall expedite its review of the grievance when the complainant, an authorized representative, or treating physician provides notice to the plan. Notice need not be in writing, but may be accomplished by a documented telephone call.

(2) A written statement to the Department and the complainant on the disposition or pending status of the urgent grievance within three (3) calendar days of receipt of the grievance by the Plan.

(3) Consideration by the plan of the enrollee's medical condition when determining the response time.

(4) No requirement that the enrollee participate in the plan's grievance process prior to applying to the Department for review of the urgent grievance.

(b) Each plan's grievance system shall allow for the Department to contact the plan regarding urgent grievances 24 hours a day, 7 days a week. During normal work hours, the plan shall respond to the Department within 30 minutes after initial contact from the Department.

During non-work hours, the plan shall respond to the Department within 1 hour after initial contact from the Department.

(1) The system established by the plan shall provide for the availability of a plan representative with authority on the plan's behalf to resolve urgent grievances and authorize the provision of health care services covered under the enrollee's plan contract in a medically appropriate and timely manner. Such authority shall include making financial decisions for expenditure of funds on behalf of the plan without first having to obtain approval from supervisors or other superiors within the plan. Nothing in this subsection shall restrict the plan representative from consulting with other plan staff on urgent grievances.

(2) Plans shall provide the Department with the following information concerning urgent grievances:

(A) A description of the system established by the plan to resolve urgent grievances. The description shall include the system's provisions for scheduling qualified plan representatives, including back-up plan representatives as necessary, to be available twenty-four (24) hours a day, seven days a week to respond to Department contacts regarding urgent grievances.

Provisions for scheduling shall include the names and titles of those plan representatives who will be available under the system, their telephone numbers, and, as applicable, pager numbers, answer service numbers, voice-mail numbers, e-mail addresses, or other means for contact.

(B) A description of how the Department may access the grievance system established by the plan.

(3) If the plan revises the system established pursuant to subsection (b), the plan shall notify the Department at least thirty (30) days in advance of implementing the revisions.

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### **28 CCR 1300.68.01(b)**

(b) Each plan's grievance system shall allow for the Department to contact the plan regarding urgent grievances 24 hours a day, 7 days a week. During normal work hours, the plan shall respond to the Department within 30 minutes after initial contact from the Department. During non-work hours, the plan shall respond to the Department within 1 hour after initial contact from the Department.

(1) The system established by the plan shall provide for the availability of a plan representative with authority on the plan's behalf to resolve urgent grievances and authorize the provision of health care services covered under the enrollee's plan contract in a medically appropriate and timely manner. Such authority shall include making financial decisions for expenditure of funds on behalf of the plan without first having to obtain approval from supervisors or other superiors within the plan. Nothing in this subsection shall restrict the plan representative from consulting with other plan staff on urgent grievances.

(2) Plans shall provide the Department with the following information concerning urgent grievances:

(A) A description of the system established by the plan to resolve urgent grievances. The description shall include the system's provisions for scheduling qualified plan representatives, including back-up plan representatives as necessary, to be available twenty-four (24) hours a day, seven days a week to respond to Department contacts regarding urgent grievances. Provisions for scheduling shall include the names and titles of those plan representatives who will be available under the system, their telephone numbers, and, as applicable, pager numbers, answer service numbers, voice-mail numbers, e-mail addresses, or other means for contact.

(B) A description of how the Department may access the grievance system established by the plan.

(3) If the plan revises the system established pursuant to subsection (b), the plan shall notify the Department at least thirty (30) days in advance of implementing the revisions.

### **28 CCR 1300.68(d)(3), (4) and (5)**

(d) The plan shall respond to grievances as follows:

(3) The plan's resolution, containing a written response to the grievance shall be sent to the complainant within thirty (30) calendar days of receipt, except as noted in Subsection (d)(8). The written response shall contain a clear and concise explanation of the plan's decision. Nothing in this regulation requires a plan to disclose information to the grievant that is otherwise confidential or privileged by law.

(4) For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is not medically necessary, the plan shall include in its written response, the reasons for its determination. The response shall clearly state the criteria, clinical guidelines or medical policies used in reaching the determination. The plan's response shall also advise the enrollee that the determination may be considered by the Department's independent medical review system. The response shall include an application for independent medical review and instructions, including the Department's toll-free telephone number for further information and an envelope addressed to the Department of Managed Health Care, HMO Help Center, 980 Ninth Street, 5<sup>th</sup> Floor, Sacramento, CA 95814.

(5) Plan responses to grievances involving a determination that the requested service is not a

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covered benefit shall specify the provision in the contract, evidence of coverage or member handbook that excludes the service. The response shall either identify the document and page where the provision is found, direct the grievant to the applicable section of the contract containing the provision, or provide a copy of the provision and explain in clear concise language how the exclusion applied to the specific health care service or benefit requested by the enrollee. In addition to the notice set forth at Section 1368.02(b) of the Act, the response shall also include a notice that if the enrollee believes the decision was denied on the grounds that it was not medically necessary, the Department should be contacted to determine whether the decision is eligible for an independent medical review.

### INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED

**Staff responsible for the activities described above, for example:**

- Officer with primary responsibility for the grievance system
- Member Services Manager
- Plan's designated representative(s) for DMHC contacts
- QM Director

### DOCUMENT(S) TO BE REVIEWED

- Policies and procedures for expedited/urgent review
- Policies and Procedures providing for Plan contacts for the DMHC to utilize regarding expedited urgent grievances
- Schedule of Plan contacts for expedited/urgent grievances
- Copies of Plan's notification letter(s) to the DMHC and complainant regarding expedited/urgent grievances
- Policies and procedures regarding reporting responsibilities (including timeframes) to the DMHC and complainant regarding expedited/urgent grievances
- Expedited/Urgent grievance logging system
- Sample of expedited/urgent files to be reviewed on site

### GA- 005 - Key Element 1:

- 1. The Plan's grievance system has policies and procedures for the expedited review of grievances for cases involving imminent and serious threat to the health of the patient ("urgent grievances").**

**CA Health and Safety Code section 1368.01(b); 28 CCR 1300.68.01(a) and (b)**

Assessment Questions	Yes	No	N/A
1.1 Does the Plan's grievance system include procedures for the expedited review of urgent grievances?			
1.2 Do the Plan's procedures <b><u>include the criteria</u></b> (severe pain, potential loss of life, limb, or major bodily function) for cases to be included in expedited review?			

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1.3	Do the Plan's procedures for expedited review of urgent grievances <b>specify</b> that there is <b>no requirement</b> that the enrollee participate in the <b>Plan's grievance process</b> prior to applying to the Department for review of the urgent grievance?			
1.4	Do the Plan's procedures provide for the receipt of Department contacts regarding urgent grievances 24 hours a day, 7 days a week?			
1.5	Do the Plan's procedures provide for the scheduling of qualified Plan representatives including back-up Plan representatives as necessary to be available 24 hours a day, 7 days a week?			
1.6	If the Plan revises the urgent grievance system established pursuant to 1300.68.01(b), does the Plan notify the Department at least 30 days in advance of implementing the revisions?			

### GA-005 - Key Element 2:

- 2. The Plan's grievance system allows for the Department to contact the Plan regarding urgent grievances 24 hours a day, 7 days a week. During normal work hours, the Plan responds to the Department within 30 minutes after initial contact from the Department. During non-work hours, the Plan responds to the Department within one hour after initial contact from the Department.  
28 CCR 1300.68.01(b)**

Assessment Questions	Yes	No	N/A
2.1 Does the Plan respond to the Department within 30 minutes after initial contact from the Department during normal working hours?			
2.2 Does the Plan respond to the Department within one hour after initial contact from the Department during non-work hours?			
2.3 Does the Plan provide a Plan representative with authority on the Plan's behalf to resolve urgent grievances and authorize the provision of health care services covered under the enrollee's plan contract in a medically appropriate and timely manner?			
2.4 Does the Plan representative's authority include making financial decisions for expenditure of funds on behalf of the Plan without first having to obtain approval from supervisors or other superiors within the Plan?			

### GA-005 - Key Element 3:

- 3. The Plan reviews, resolves and responds to urgent grievances in a timely and appropriate manner.  
CA Health and Safety Code section 1368.01(b); CA Health and Safety Code section 1368.02(b); 28 CCR 1300.68(d)(3), (4) and (5); 28 CCR 1300.68.01(a) and (b)**

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Assessment Questions	Yes	No	N/A
3.1 Upon receipt of an urgent grievance, does the Plan immediately inform the complainant of his/her right to contact the Department regarding the urgent grievance? (Notice need not be in writing, but may be accomplished by a documented telephone call.) <b>(Standard Grievance/Appeals Worksheet #7)</b>			
3.2 Does the Plan consider the enrollee's medical condition when determining the response time? <b>(Standard Grievance/Appeals Worksheet #8)</b>			
3.3 Is the expedited appeal reviewed by appropriate personnel? <b>(Standard Grievance/Appeals Worksheet #19)</b>			
3.4 Does the Plan consistently provide a written statement to the complainant on the disposition or pending status of the urgent grievance <u>within three (3) calendar days</u> from receipt of the grievance? <b>(Standard Grievance/Appeals Worksheet #10)</b>			
3.5 Do acknowledgement and/or response letters include required language in appropriate format? <b>(Standard Grievance/Appeals Worksheet #11)</b>			
3.6 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b>not medically necessary</b> , does the Plan's response contain a <b>clear and concise</b> explanation of the Plan's decision? <b>(Standard Grievance/Appeals Worksheet #22)</b>			
3.7 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b>not medically necessary</b> , does the Plan's response contain a clear statement of the <b>criteria, clinical guidelines, or medical policies</b> used in reaching the determination? <b>(Standard Grievance/Appeals Worksheet #21)</b>			
3.8 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b>not medically necessary</b> , does the Plan's response contain <b>notification</b> that the determination may be considered by the Department's <b>independent medical review</b> system? <b>(Standard Grievance/Appeals Worksheet #23)</b>			
3.9 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b>not medically necessary</b> , does the Plan's response contain an <b>application</b> for <b>independent medical review</b> and instructions, including the <b>Department's</b> toll-free telephone number for further information? <b>(Standard Grievance/Appeals Worksheet #23)</b>			



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Assessment Questions	Yes	No	N/A
3.10 For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is <b>not medically necessary</b> , does the Plan's response contain an <b>envelope</b> addressed to the <b>Department of Managed Health Care</b> , HMO Help Center, 980 Ninth Street, 5 <sup>th</sup> Floor, Sacramento, CA 95814? <b>(Standard Grievance/Appeals Worksheet #23)</b>			
3.11 For grievances involving a determination that the requested service is <b>not a covered benefit</b> , does each response contain the <b>specific provision</b> in the contract, <b>EOC</b> or member handbook that excludes the services (either by identifying the document and page where the provision is found, by directing the grievant to the applicable section of the contract or by providing a copy of the provision)? <b>(Standard Grievance/Appeals Worksheet #20)</b>			
3.12 For grievances involving a determination that the requested service is <b>not a covered benefit</b> , does each response contain <b>clear and concise</b> language that explains how the exclusion applied to the specific health care service or benefit requested by the enrollee? <b>(Standard Grievance/Appeals Worksheet #22)</b>			
3.13 For grievances involving a determination that the requested service is <b>not a covered benefit</b> , does each response contain notice that if the enrollee believes the <b>decision was denied</b> on the grounds that it was <b>not medically necessary</b> , the Department should be contacted to determine whether the decision is eligible for an <b>independent medical review</b> ? <b>(Standard Grievance/Appeals Worksheet #23)</b>			
3.14 Does the Plan resolve the urgent grievance and send notification to the enrollee in a timely manner considering the enrollee's medical condition? <b>(Standard Grievance/Appeals Worksheets #8, #16, #17)</b>			

### End of Requirement GA-005: Expedited Review of Urgent Grievances



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### Requirement GA-006: Independent Medical Review (IMR)

#### STATUTORY/REGULATORY CITATION(S)

##### **CA Health and Safety Code section 1367.01(h)(3)**

Decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to enrollees shall be communicated to the requesting provider within 24 hours of the decision. Except for concurrent review decisions pertaining to care that is underway, which shall be communicated to the enrollee's treating provider within 24 hours, decisions resulting in denial, delay, or modification of all or part of the requested health care service shall be communicated to the enrollee in writing within two business days of the decision. In the case of concurrent review, care shall not be discontinued until the enrollee's treating provider has been notified of the plan's decision, and a care plan has been agreed upon by the treating provider that is appropriate for the medical needs of that patient.

##### **CA Health and Safety Code sections 1374.30(e)**

(e) Every plan contract that is issued, amended, renewed or delivered in this state (California) on or after January 1, 2000, shall, effective January 1, 2001, provide an enrollee with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the plan, or by one of its contracting providers, if the decision was based in whole or in part, on a finding that the proposed health care services are not medically necessary. An enrollee may designate an agent to act on his or her behalf. The provider may join with or otherwise assist the enrollee in seeking an independent medical review and may advocate on behalf of the enrollee.

##### **CA Health and Safety Code sections 1374.30(a), (e), and (h)**

(a) Commencing January 1, 2001, there is hereby established in the Department the Independent Medical Review System.

(e) Every plan contract that is issued, amended, renewed or delivered in this state (California) on or after January 1, 2000, shall, effective January 1, 2001, provide an enrollee with the opportunity to seek an independent medical review whenever health care services have been denied, modified, or delayed by the plan, or by one of its contracting providers, if the decision was based in whole or in part, on a finding that the proposed health care services are not medically necessary. An enrollee may designate an agent to act on his or her behalf. The provider may join with or otherwise assist the enrollee in seeking an independent medical review and may advocate on behalf of the enrollee.

(h) The independent medical review process authorized by this article is in addition to any other procedures or remedies that may be available.

##### **CA Health and Safety Code section 1374.30(j)(1) and (3)**

(j) An enrollee may apply to the department for an independent medical review when all of the following conditions are met:

(1)(A) The enrollee's provider has recommended a health care service as medically necessary, or

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(B) The enrollee has received urgent care or emergency services that a provider determined was medically necessary, or

(C) The enrollee, in the absence of a provider recommendation under subparagraph (A) or the receipt of urgent care or emergency services by a provider under subparagraph (B), has been seen by an in-plan provider for the diagnosis or treatment of the medical condition for which the enrollee seeks independent review. The plan shall expedite access to an in-plan provider upon request of an enrollee. The in-plan provider need not recommend the disputed health care service as a condition for the enrollee to be eligible for an independent review. For purposes of this article, the enrollee's provider may be an out-of-plan provider.

However, the plan shall have no liability for payment of services provided by an out-of-plan provider, except as provided pursuant to subdivision (c) of Section 1374.34.

(3) The enrollee has filed a grievance with the plan or its contracting provider pursuant to Section 1368, and the disputed decision is upheld or the grievance remains unresolved after 30 days. The enrollee shall not be required to participate in the plan's grievance process for more than 30 days. In the case of a grievance that requires expedited review pursuant to Section 1368.01, the enrollee shall not be required to participate in the plan's grievance process for more than three days.

### **CA Health and Safety Code section 1374.30(l)**

(I) The enrollee shall pay no application or processing fees of any kind.

### **CA Health and Safety Code section 1374.30(n)**

(n) Upon notice from the department that the health care service plan's enrollee has applied for an independent medical review, the plan or its contracting providers shall provide to the independent medical review organization designated by the department a copy of all of the following documents within three business days of the plan's receipt of the department's notice of a request by an enrollee for an independent review:

(1)(A) A copy of all of the enrollee's medical records in the possession of the plan or its contracting providers relevant to each of the following:

(i) The enrollee's medical condition.

(ii) The health care services being provided by the plan and its contracting providers for the condition.

(iii) The disputed health care services requested by the enrollee for the condition.

(B) Any newly developed or discovered relevant medical records in the possession of the plan or its contracting providers after the initial documents are provided to the independent medical review organization shall be forwarded immediately to the independent medical review organization. The plan shall concurrently provide a copy of medical records required by this subparagraph to the enrollee or the enrollee's provider, if authorized by the enrollee, unless the offer of medical records is declined or otherwise prohibited by law. The confidentiality of all medical record information shall be maintained pursuant to applicable state and federal laws.

(2) A copy of all information provided to the enrollee by the plan and any of its contracting providers concerning plan and provider decisions regarding the enrollee's condition and care, and a copy of any materials the enrollee or the enrollee's provider submitted to the plan and

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to the plan's contracting providers in support of the enrollee's request for disputed health care services. This documentation shall include the written response to the enrollee's grievance, required by paragraph (4) of subdivision (a) of Section 1368. The confidentiality of any enrollee medical information shall be maintained pursuant to applicable state and federal laws.

(3) A copy of any other relevant documents or information used by the plan or its contracting providers in determining whether disputed health care services should have been provided, and any statements by the plan and its contracting providers explaining the reasons for the decision to deny, modify, or delay disputed health care services on the basis of medical necessity. The plan shall concurrently provide a copy of documents required by this paragraph, except for any information found by the director to be legally privileged information, to the enrollee and the enrollee's provider. The department and the independent review organization shall maintain the confidentiality of any information found by the director to be the proprietary information of the plan.

### **CA Health and Safety Code section 1374.31**

(a) If there is an imminent and serious threat to the health of the enrollee, as specified in subdivision (c) of Section 1374.33, all necessary information and documents shall be delivered to an independent medical review organization within 24 hours of approval of the request for review. In reviewing a request for review, the department may waive the requirement that the enrollee follow the plan's grievance process in extraordinary and compelling cases, where the director finds that the enrollee has acted reasonably.

(b) The department shall expeditiously review requests and immediately notify the enrollee in writing as to whether the request for an independent medical review has been approved, in whole or in part, and, if not approved, the reasons therefore. The plan shall promptly issue a notification to the enrollee, after submitting all of the required material to the independent medical review organization that includes an annotated list of documents submitted and offer the enrollee the opportunity to request copies of those documents from the plan. The department shall promptly approve enrollee requests whenever the enrollee's plan has agreed that the case is eligible for an independent medical review. The department shall not refer coverage decisions for independent review. To the extent an enrollee request for independent review is not approved by the department, the enrollee request shall be treated as an immediate request for the department to review the grievance pursuant to subdivision (b) of Section 1368.

(c) An independent medical review organization, specified in Section 1374.32, shall conduct the review in accordance with Section 1374.33 and any regulations or orders of the director adopted pursuant thereto. The organization's review shall be limited to an examination of the medical necessity of the disputed health care services and shall not include any consideration of coverage decisions or other contractual issues.

### **CA Health and Safety Code section 1374.31(a)**

(a) If there is an imminent and serious threat to the health of the enrollee, as specified in subdivision (c) of Section 1374.33, all necessary information and documents shall be delivered to an independent medical review organization within 24 hours of approval of the request for review. In reviewing a request for review, the department may waive the

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requirement that the enrollee follow the plan's grievance process in extraordinary and compelling cases, where the director finds that the enrollee has acted reasonably. review shall be limited to an examination of the medical necessity of the disputed health care services and shall not include any consideration of coverage decisions or other contractual issues.

### **CA Health and Safety Code section 1374.34**

(a) Upon receiving the decision adopted by the director pursuant to Section 1374.33 that a disputed health care service is medically necessary, the plan shall promptly implement the decision. In the case of reimbursement for services already rendered, the plan shall reimburse the provider or enrollee, whichever applies, within five working days. In the case of services not yet rendered, the plan shall authorize the services within five working days of receipt of the written decision from the director, or sooner if appropriate for the nature of the enrollee's medical condition, and shall inform the enrollee and provider of the authorization in accordance with the requirements of paragraph (3) of subdivision (h) of Section 1367.01.

(b) A plan shall not engage in any conduct that has the effect of prolonging the independent review process. The engaging in that conduct or the failure of the plan to promptly implement the decision is a violation of this chapter and, in addition to any other fines, penalties, and other remedies available to the director under this chapter, the plan shall be subject to an administrative penalty of not less than five thousand dollars (\$5,000) for each day that the decision is not implemented. The administrative penalties shall be paid to the Managed Care Administrative Fines and Penalties Fund and shall be used for the purposes specified in Section 1341.45.

(c) The director shall require the plan to promptly reimburse the enrollee for any reasonable costs associated with those services when the director finds that the disputed health care services were a covered benefit under the terms and conditions of the health care service plan contract, and the services are found by the independent medical review organization to have been medically necessary pursuant to Section 1374.33, and either the enrollee's decision to secure the services outside of the plan provider network was reasonable under the emergency or urgent medical circumstances, or the health care service plan contract does not require or provide prior authorization before the health care services are provided to the enrollee.

(d) In addition to requiring plan compliance regarding subdivisions (a), (b), and (c) the director shall review individual cases submitted for independent medical review to determine whether any enforcement actions, including penalties, may be appropriate. In particular, where substantial harm, as defined in Section 3428 of the Civil Code, to an enrollee has already occurred because of the decision of a plan, or one of its contracting providers, to delay, deny, or modify covered health care services that an independent medical review determines to be medically necessary pursuant to Section 1374.33, the director shall impose penalties.

(e) Pursuant to Section 1368.04, the director shall perform an annual audit of independent medical review cases for the dual purposes of education and the opportunity to determine if any investigative or enforcement actions should be undertaken by the department, particularly if a plan repeatedly fails to act promptly and reasonably to resolve grievances associated with a delay, denial, or modification of medically necessary health care services

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when the obligation of the plan to provide those health care services to enrollees or subscribers is reasonably clear.

### **28 CCR 1300.68(d)(4)**

(d) The plan shall respond to grievances as follows:

(4) For grievances involving delay, modification or denial of services based on a determination in whole or in part that the service is not medically necessary, the plan shall include in its written response, the reasons for its determination. The response shall clearly state the criteria, clinical guidelines or medical policies used in reaching the determination. The plan's response shall also advise the enrollee that the determination may be considered by the Department's independent medical review system. The response shall include an application for independent medical review and instructions, including the Department's toll-free telephone number for further information and an envelope addressed to the Department of Managed Health Care, HMO Help Center, 980 Ninth Street, 5th Floor, Sacramento, CA 95814.

### **28 CCR 1300.68(f)**

(f) Quarterly Reports

(1) All plans shall submit a quarterly report to the Department describing grievances that were or are pending and unresolved for 30 days or more. The report shall be prepared for the quarters ending March 31st, June 30th, September 30th and December 31st of each calendar year. The report shall also contain the number of grievances referred to external review processes, such as reconsiderations of Medicare Managed Care determinations pursuant to 42 C.F.R. Part 422, the Medi-Cal fair hearing process, the Department's complaint or Independent Medical Review system, or other external dispute resolution systems, known to the plan as of the last day of each quarter.

(2) The quarterly report shall include:

(A) The licensee's name, quarter and date of the report;

(B) The total number of grievances filed by enrollees that were or are pending and unresolved for more than 30 calendar days at any time during the quarter under the categories of Commercial, Medicare, and Medi-Cal/other products offered by the plan;

(C) A brief explanation of why the grievance was not resolved in 30 days, and indicate whether the grievance was or is pending at: (1) the plan's internal grievance system; (2) the Department's consumer complaint process; (3) the Department's Independent Medical Review system; (4) court; or (5) other dispute resolution processes. Alternatively, the plan shall indicate whether the grievance was or is submitted to: (1) the Medicare review and appeal system; (2) the Medi-Cal fair hearing process; or (3) arbitration.

(D) The nature of the unresolved grievances as (1) coverage disputes; (2) disputes involving medical necessity; (3) complaints about the quality of care; (4) complaints about access to care (including complaints about the waiting time for appointments); (5) complaints about the quality of service; and (6) other issues. All issues reasonably described in the grievance shall be separately categorized.

(E) The quarterly report shall not contain personal or confidential information with respect to any enrollee.

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(3) The quarterly report shall be verified by an officer authorized to act on behalf of the plan. The report shall be submitted in writing or through electronic filing to the Department's Sacramento Office to the attention of the Filing Clerk no later than 30 days after each quarter. The quarterly report shall not be filed as an amendment to the plan application.

(4) The quarterly report shall be filed in the format specified in subsection (i).

### **28 CCR 1300.70.4(a)**

(a) Enrollees of a health care services plan may request an independent medical review pursuant to sections 1370.4, 1374.30 through 1374.34 of the Act and section 1300.74.30 of title 28 when the plan has denied a therapy or medical service that would otherwise be covered based on the plan's determination that the therapy or medical service is experimental or investigational.

### **28 CCR 1300.74.30(a) through (c), and (d)(4)**

(a) Plan enrollees may request independent medical review pursuant to this regulation for decisions that are eligible for independent medical review under Article 5.55 and section 1370.4 of the Act. The independent medical review process shall resolve decisions that deny, modify, or delay health care services, that deny reimbursement for urgent or emergency services or that involve experimental or investigational therapies. Specialized plans shall provide for independent medical reviews under this section if a covered service relates to the practice of medicine or is provided pursuant to a contract with a health plan providing medical, surgical and hospital services. The Department shall be the final arbiter when there is a question as to whether a dispute over a health care service is eligible for independent medical review, and whether extraordinary and compelling circumstances exist that waive the requirement that the enrollee first participate in the plan's grievance system.

(b) An enrollee may apply for an independent medical review under the conditions specified in Section 1374.30(j) of the Act. The Department may waive the requirement that the enrollee participate in the plan's grievance process if the Department determines that extraordinary and compelling circumstances exist, which include, but are not limited to, serious pain, the potential loss of life, limb or major bodily function, or the immediate, and serious deterioration of the health of the enrollee.

(c) In cases involving a claim for out of plan emergency or urgent services that a provider determined were medically necessary, the independent medical review shall determine whether the services were emergency or urgent services necessary to screen and stabilize the enrollee's condition. For purposes of this section "emergency services" are services for emergency medical conditions as defined in section 1300.71.4 of title 28, and "urgent services" are all services, except emergency services, where the enrollee has obtained the services without prior authorization from the plan, or from a contracting provider.

(d) Applications for independent medical review shall be submitted on a one-page form entitled Independent Medical Review Application (DMHC IMR 11/00), which is incorporated by reference, and shall be provided by the Department. The form shall contain a signed release from the enrollee, or a person authorized pursuant to law to act on behalf of the enrollee, authorizing release of medical and treatment information. Additionally, the enrollee may provide any relevant material or documentation with the application including, but not limited to:

(4) If expedited review is requested for a decision eligible for independent



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medical review pursuant to Article 5.55 of the Act, the application shall include a certification from the enrollee's physician or provider indicating that an imminent and serious threat to the health of the enrollee exists. If expedited review is requested for a decision eligible for independent medical review pursuant to section 1370.4 of the Act, the application shall include a certification from the enrollee's physician that the proposed therapy would be significantly less effective if not promptly initiated.

### **28 CCR 1300.74.30(j) and (k)(1)**

(j) Following receipt of the Department's notification that an application for independent medical review has been assigned to an independent medical review organization, the plan shall provide the organization with all information that was considered in relation to the disputed health care service, the enrollee's grievance and the plan's determination. The plan shall forward all information to the medical review organization within three (3) business days for a regular review and within one (1) calendar day in the case of an expedited review.

(1) Unless otherwise advised in the notification or by the assigned review organization, the plan shall submit a complete set of the materials described below for the independent review organization.

(A) A copy of all correspondence from and received by the plan concerning the disputed health care service, including but not limited to, any enrollee grievance relating to the requested service;

(B) A complete and legible copy of all medical records and other information used by the plan in making its decision regarding the disputed health care service. An additional copy of medical records shall be submitted for each reviewer.

(C) A copy of the cover page of the evidence of coverage and complete pages with the referenced sections highlighted or underlined sections, if the evidence of coverage was referenced in the plan's resolution of the enrollee's grievance;

(D) The plan's response to any additional issues raised in the enrollee's application for independent medical review.

(2) The plan shall promptly provide the enrollee with an annotated list of all documents submitted to the independent medical review organization, together with information on how copies may be requested.

(k) Plans shall be responsible for providing additional information as follows:

(1) Any medical records or other relevant matters not available at the time of the Department's initial notification, or that result from the enrollee's on-going medical care or treatment for the medical condition or disease under review. Such matters shall be forwarded as soon as possible upon receipt by the health plan, not to exceed five (5) business days in routine cases or one (1) calendar day in expedited cases,

### **INDIVIDUAL(S)/POSITION(S) TO BE INTERVIEWED**

**Staff responsible for the activities described above, for example:**

- Utilization Management Director
- Optometric Director
- Officer with primary responsibility for the grievance system



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### DOCUMENT(S) TO BE REVIEWED

- Policies and Procedures regarding IMR for service delays, modifications, or denials based on medical necessity or on a determination that a therapy is experimental or investigational
- Other policies and procedures in support of the IMR system
- Plan's audit tools and reports used to monitor against IMR program requirements (timeliness, communications, etc.

### GA-006 - Key Element 1:

1. The Plan has established policies and procedures that support the Department's IMR system.

**CA Health and Safety Code section 1374.30(e); CA Health and Safety Code sections 1374.30(j)(1) and (3); CA Health and Safety Code section 1374.31; 28 CCR 1300.70.4(a); 28 CCR 1300.74.30(a) through (c) and (d)(4)**

Assessment Questions	Yes	No	N/A
1.1 Does the Plan have established policies and procedures that provide enrollees an opportunity to file for an IMR when the Plan or a contracting provider has denied a therapy, medical service or a claim for urgent and emergency service based in whole or in part on a finding that the services were not medically necessary or were experimental or investigational?			
1.2 Do the Plan's procedures outline a process that allows the enrollee to be <b><u>assisted/represented</u></b> by an agent or the enrollee's provider?			
1.3 Do the Plan's procedures outline a process that allows the enrollee to be <b><u>not financially responsible</u></b> for application or processing fees of any kind?			
1.4 Do the Plan's procedures outline a process that allows the enrollee to be <b><u>not required to participate</u></b> in the Plan's grievance process if the Department determines that extraordinary and compelling circumstances exist, which include but are not limited to, serious pain, the potential loss of life, limb or major bodily function, or the immediate and serious deterioration of the health of the enrollee?			
1.5 Does the Plan have procedures for IMR cases involving claims for out of plan emergency or urgent services, which a provider determined were medically necessary and require independent medical review to determine if services were medically necessary?			

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1.6	Does the Plan allow an enrollee to file an expedited IMR if the disputed service has not been provided?			
1.7	Does the Plan allow an enrollee to file an expedited IMR if the enrollee's provider certifies in writing that an imminent and serious threat to the health of the enrollee may exist, including but not limited to serious pain, the potential loss of life, limb or major bodily function, or the immediate and serious deterioration of the health of the enrollee?			

### GA-006 - Key Element 2:

- 2. The Plan submits required information to the IMR organization in a timely manner.**  
CA Health and Safety Code section 1374.30(n); CA Health and Safety Code section 1374.31(a); 28 CCR 1300.74.30(j) and (k)(1)

Assessment Questions	Yes	No	N/A
2.1 In the case of a regular IMR, does the Plan submit all required information to the medical review organization <b><u>within three (3) business days</u></b> following receipt of the Department's notification that an application for an IMR has been assigned to an external review organization?			
2.2 In the case of a regular IMR, does the Plan forward any additional information not available at the time of the initial submission to the external review organization as soon as possible, but <b><u>not to exceed five (5) business days</u></b> ?			
2.3 In the case of an expedited IMR, does the Plan submit all required information to the medical review organization <b><u>within one (1) calendar day</u></b> following receipt of the Department's notification that an application for an IMR has been assigned to an external review organization?			
2.4 In the case of an expedited IMR, does the Plan forward any additional information not available at the time of the initial submission to the external review organization as soon as possible, but <b><u>not to exceed one (1) calendar day</u></b> ?			

### GA-006 - Key Element 3:

- 3. The Plan implements IMR decisions promptly.**  
CA Health and Safety Code section 1367.01(h)(3); CA Health and Safety Code section 1374.34

Assessment Questions	Yes	No	N/A
3.1 In cases of reimbursement of services already rendered in which a disputed health care is found to be medically necessary, does the Plan reimburse the provider or enrollee, whichever applies, <b><u>within five working days</u></b> ?			

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Assessment Questions	Yes	No	N/A
3.2 In cases in which services have not been rendered, does the Plan authorize the services <b><u>within five working days</u></b> of receipt of the written decision from the director, or sooner if appropriate for the nature of the enrollee's medical condition?			
3.3 In decisions to approve, modify, or deny requests by providers for authorization prior to, or concurrent with, the provision of health care services to enrollees, does the Plan communicate such decision to the requesting provider <b><u>within 24 hours</u></b> of the decision?			
3.4 For concurrent review decisions pertaining to care that is underway, does the Plan communicate such decision to the enrollee's treating provider <b><u>within 24 hours</u></b> ?  <b>Note:</b> In concurrent review denial or modification decisions, care shall not be discontinued until the enrollee's treating provider has been notified of the Plan's decision, and a care plan has been agreed upon by the treating provider that is appropriate for the medical needs of the enrollee.			
3.5 Does the Plan communicate decisions resulting in denial, delay, or modification of all or part of the requested health care service to the enrollee in writing <b><u>within two business days</u></b> of the decision? (This does not include concurrent review decisions pertaining to care that are underway, which shall be communicated to the enrollee's treating provider within 24 hours as noted above.)			

### End of Requirement GA-006: Independent Medical Review